

**TRANSLATION**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br><b>P04-155</b>  | <b>FOR FURTHER ACTION</b>                                       | See Form PCT/IPEA/416                               |
| International application No.<br><b>PCT/JP2005/000313</b>  | International filing date (day/month/year)<br><b>13.01.2005</b> | Priority date (day/month/year)<br><b>14.01.2004</b> |
| International Patent Classification (IPC) or national classification and IPC<br><b>A61K45/00 (2006.01), A23L1/304 (2006.01), A61K38/12 (2006.01),<br/>A61P7/06 (2006.01)</b> |   |   |
| Applicant<br><b>GEKKEIKAN SAKE CO., LTD.</b>   |   |   |

|  |   |
|--|---|
| 1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.   |   |
| 2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.   |   |
| 3. This report is also accompanied by ANNEXES, comprising:   |   |
| a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:   |   |
| <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).   |   |
| <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.   |   |
| b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). |   |
| 4. This report contains indications relating to the following items:   |   |
| <input checked="" type="checkbox"/> Box No. I  | Basis of the report   |
| <input type="checkbox"/> Box No. II  | Priority  |
| <input checked="" type="checkbox"/> Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV  | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI  | Certain documents cited   |
| <input type="checkbox"/> Box No. VII   | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII  | Certain observations on the international application   |

|   |                                   |
|---|-----------------------------------|
| Date of submission of the demand        | Date of completion of this report |
| Name and mailing address of the IPEA/JP | Authorized officer                |
| Facsimile No.                           | Telephone No.                     |

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2005/000313

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☒ the international application as originally filed/furnished
- ☐ the description:
- pages \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the claims:
- nos. \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ the drawings:
- sheets \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2005/000313

## Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application  
☒ claims Nos. 21-24, 26, 27, 29-31

because:

- ☒ the said international application, or the said claims Nos. 21-24, 26, 27, 29-31  
relate to the following subject matter which does not require an international preliminary examination (*specify*):

The subject matter of claims 21-24, 26, 27, and 29-31 relates to methods for treatment of the human body by therapy. Thus, this International Preliminary Examining Authority is not required to carry out international preliminary examination on this subject matter under the provisions of PCT Article 34(4) (a) (i) and PCT Rule 67.1(iv).

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_  
are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported  
by the description that no meaningful opinion could be formed.

- ☒ no international search report has been established for said claims Nos. 21-24, 26, 27, 29-31

- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

- |                            |  |
|----------------------------|--|
| the written form           | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |

- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-bis of the Administrative Instructions.

- ☐ See Supplemental Box for further details.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2005/000313

| Box No. V   | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |              |     |
|---|---|--------------|-----|
| 1. Statement  |   |              |     |
| Novelty (N)   | Claims  |              | YES |
|   | Claims  | 1-20, 25, 28 | NO  |
| Inventive step (IS)   | Claims  |              | YES |
|   | Claims  | 1-20, 25, 28 | NO  |
| Industrial applicability (IA)   | Claims  | 1-20, 25, 28 | YES |
|   | Claims  |              | NO  |
| 2. Citations and explanations (Rule 70.7)   |   |              |     |
| <u>Claims 1 to 20, 25 and 28</u>  |   |              |     |
| Document 1: JP 41-21987 B   |   |              |     |
| <p>The inventions set forth in claims 1 to 20, 25 and 28 lack novelty and do not involve an inventive step in the light of document 1 cited in the international search report.</p>   |   |              |     |
| <p>Document 1 (page 1, lines 10 to 18) indicates that ferrichrysin, an iron-containing substance, has an anti-anemic activity, and that it may be used as a pharmaceutical or a food additive. Moreover, it is obvious from general formula (I) that the iron is trivalent.</p> |   |              |     |
| <p>Therefore document 1 sets forth inventions which are no different from the inventions set forth in claims 1 to 20, 25 and 28 of this application.</p>  |   |              |     |